

Group III: Claim 8, directed to a strain of *Nocardiosis*, classified in Class 435,
subclass 252.1.

Office action, page 2. Applicants are required to elect a group for examination on the merits. *Id.* In response, Applicants elect Group I (claims 1-3), with traverse.

In traversing the restriction requirement, Applicants draw the Examiner's attention to M.P.E.P. § 803, which sets forth the criteria that the Examiner must satisfy to make a restriction requirement. In particular, the Examiner cannot restrict Applicants' invention unless examination of the claims results in a serious burden. Further, "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." M.P.E.P. § 803.

In the present application, Applicants contend that there is little burden imposed on the Examiner to examine all of the groups together. For example, a search for publications relating to the use of the compounds of Formula I (e.g., Group I) will overlap with a search for methods of making those same compounds (e.g., Group II). Further, the present claims in group II are not directed to all methods of making the claimed compounds using microorganisms. Rather, they are directed to methods using a very specific microorganism, *Nocardiosis* species ST 100692. For all of these reasons, Applicants contend there is not an undue burden on the Examiner to search all of the groups of claims together in a single application. Accordingly, Applicants respectfully request that the Examiner reconsider the restriction requirement and rejoin the restricted claims.

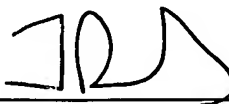
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Customer No. 22,852
Attorney Docket No. 02481.1779

If necessary, please grant any extensions of time required to enter this response
and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: April 6, 2004

By: 
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